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Appl. No.:	10/715,162	Confirmation No.:	4105
Applicant(s):	Vesa Metsatahti et al.	Art Unit:	2166
Filed:	November 17, 2003	Examiner:	Usmaan Saeed
Title:	TIME BAR NAVIGATION IN A MEDIA DIARY APPLICATION		

Docket No.: 042933/269514
Customer No.: 00826

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**APPEAL BRIEF TRANSMITTAL
(PATENT APPLICATION – 37 C.F.R. § 41.37)**

- Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on May 19, 2008.
- ☐ Applicant claims small entity status.
- Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:
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Respectfully submitted,

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PATENT

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APPEAL BRIEF UNDER 37 CFR § 41.37

This Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" filed May 19, 2008.

1. *Real Party in Interest.*

The real party in interest in this appeal is Nokia Corporation, the assignee of the above-referenced patent application.

2. *Related Appeals and Interferences.*

The following applications are currently subject to appeals and may have some relationship to the present application:

- U.S. Patent Application No. 10/792,175; and
- U.S. Patent Application No. 10/774,670.

In neither of the above listed cases has a decision been rendered.

3. *Status of Claims.*

The present appeal involves Claims 1-18, which are presently under a final rejection as set forth by the final Official Action mailed on March 31, 2008 ("the final Official Action"). The claims at issue are set forth in the attached Claims Appendix.

4. *Status of Amendments.*

No amendments have been filed subsequent to the final Official Action.

5. *Summary of Claimed Subject Matter.*

Embodiments of the invention are directed to systems and methods for digital storage and management of media files. Such systems and methods may be useful, for example, in managing the media files that may be communicated between and/or stored by digital devices. For instance, cellular telephones may capture or otherwise store digital images, digital video files, audio files, multimedia files, etc. As the digital storage capacity of these devices increases, each device may store a significant number of digital media files, and management of these many files may be challenging. *See* ¶¶ [0002]-[0004].

As such, embodiments of the present invention may provide a media diary or media management application that can associate and store media files according to a specific predefined time. The media diary may incorporate a time bar that can be navigated in order to locate media files. For example, the time bar may incorporate year, month, week, and day hierarchal levels through which a user can maneuver in order to pinpoint a specific time period associated with a media file of interest. *See* ¶ [0011].

Independent Claim 1 is directed to a computer program product comprising a computer readable storage medium having computer-readable program instructions stored therein. The storage medium may be a memory device, such as flash read-only memory, removable hard disc

device, or the like, and the programming instructions may be written in a standard computer programming language, such as C++, Java or the like. *See, e.g.*, ¶ [0031].

The programming instructions include first instructions that are configured, when executed, to generate a media view that provides access to digital media files and associates digital media files with a predefined time. An example media view is illustrated in Fig. 3 (reproduced below), the media view (labeled 200) including various media file representations (220) in date columns (210) of the media view. *See* ¶ [0041]. The predefined time may be a specific date associated with a date on which the media file was created or for which the media file was intended. For example, the media file could be an image from a birthday party, and the image file could be associated with (*e.g.*, categorized and/or stored according to) the date of the birthday party. *See* ¶ [0028].

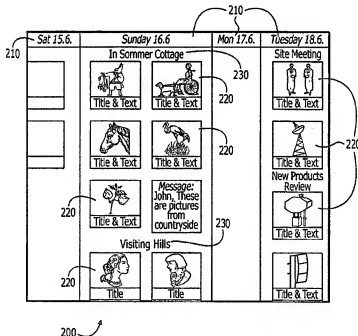


FIG. 3

The programming instructions also include second instructions that are configured, when executed, to generate a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time. For example, Fig. 5 (reproduced

below) illustrates a time bar (labeled **310**) presented in conjunction with a media view (**200**). The time bar may include a time handle (**320**) that allows the media diary to be scrolled forward and backward in time. See ¶ [0054]. The time bar defines time units (**330**), and the size (*e.g.*, the length) of each time unit may indicate the volume of media files (measured by the number of media files, the size (in bytes) of the media files, or in some other manner) that exists on the specific date (or date range) associated with that time unit. For example, a relatively large time unit will indicate that multiple media files exist for that time unit, and a relatively small time unit will indicate minimal or no media files exist for that time unit. See ¶ [0057].

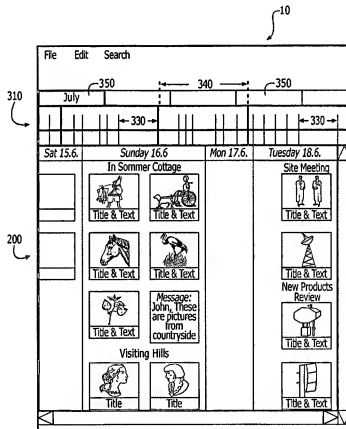


FIG. 5

Independent Claim 11 is directed to an apparatus, such as a cellular telephone, a personal data assistant, portable computer, a digital camera, etc., including a processing unit (*e.g.*, a processor, an application specific integrated circuit, analog and/or digital circuitry, or any other

similar device that executes computer-readable program instructions embodied in a computer readable storage medium. *See* ¶ [0068]. The processing unit executes computer-readable program instructions including first instructions that are configured, when executed, to generate a media view that provides access to digital media files and associates digital media files with a predefined time (for example, as shown in Fig. 3 and discussed above). The processing unit also executes second instructions that are configured, when executed, to generate a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time (for example, as shown in Fig. 5 and discussed above).

Independent Claim 13 is directed to a method, such as a method for managing media files. The method includes associating a digital media file with a predefined time. *See* ¶ [0014]. The digital media file is represented in a media view that provides access to the media file with the associated predefined time. *Id.* A time bar is displayed in combination with the media view, which time bar permits a user to locate the digital media file based on the associated predefined time. *Id.* The time bar has a plurality of segments of unit time, each segment defining a respective length along the timeline that is based on the amount of media files associated with that respective segment of time. *See* ¶ [0057] and Fig. 5.

Independent Claim 16 is directed to a method, such as a method for locating stored media files. The method includes providing the user of a digital device (*e.g.*, a cellular telephone, a personal data assistant, a portable computer, a digital camera, etc.) a display of a time bar and a media view that represents media files in association with a predefined time. An example of a combined display of a media view and a time bar is provided by Fig. 5. The time bar has one or more time levels, and the display of at least one time level is divided into a plurality of segments of unit time. For example, referring to Fig. 5, the time bar (310) may include levels of indicators for time span (350), time period (340) and time unit (330), which may correspond to months, weeks, and days, respectively. *See* ¶ [0059]. The display of each segment of unit time of at least one time level (*e.g.*, the time units 330 in Fig. 5) has a respective length along the time bar that is based upon the amount of media files associated with the respective segment of unit time. One or more of the time levels can be activated in order to display the specific predefined time for

which a media file is associated, which specific period of time can be activated to display a representation of the media file and the associated predefined time. The representation of the media file can then be selected to access the media file. *See* ¶¶ [0015].

6. ***Grounds of Rejection to be Reviewed on Appeal.***

Claims 1-11 and 13-18 stand rejected under 35 U.S.C. § 103(a) as being obvious over International Patent Application Publication No. WO 02/057959 A2 to Rothmuller *et al.* (“*Rothmuller*”) in view of U.S. Patent Application Publication No. 2003/0009493 to Parker *et al.* (“*Parker*”). Claim 12, which depends from Claim 11, stands rejected under 35 U.S.C. § 103(a) as being obvious over *Rothmuller* alone.

Appellant hereby appeals all of the above rejections of claims 1-18.

7. ***Argument.***

As explained below, Appellants respectfully submit that all of the claims pending in the present application are patentably distinct from *Rothmuller* and *Parker*, taken individually or in combination. In view of the remarks presented herein, Appellants respectfully request reversal of the rejections of the pending claims of the present application.

A. ***Claims 1-11 and 13-18 are patentably distinct from Rothmuller and Parker, viewed alone or in combination.***

The final Official Action rejected independent Claims 1, 11, 13, and 16, and the claims that respectively depend therefrom, under 35 U.S.C. § 103(a) as being obvious over *Rothmuller* in view of *Parker*. Claim 1 recites:

1. A computer program product comprising a computer readable storage medium having computer-readable program instructions embodied in the medium, the computer-readable program instructions comprising:

first instructions configured, when executed, to generate a media view that provides access to digital media files and associates digital media files with a predefined time; and

second instructions configured, when executed, to generate a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time.

Independent Claims 11, 13, and 16 all include a recitation similar to “generating a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time,” as recited in Claim 1.

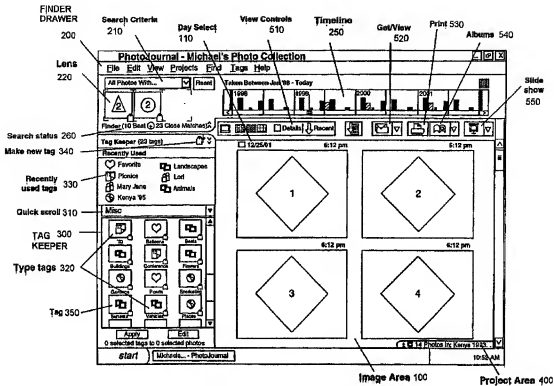
Rothmuller is directed to a method and computer program product for “storing, cataloguing, managing, organizing, finding, and displaying objects such as digital images.” “The invention includes methods for associating (“tagging”) fields of text and numeric data (“metadata”) with individual objects such as images or photos,” and organizing the objects based on their tags. *See* p. 1, l. 25 – p. 2, l. 30. In some embodiments, the distribution of the objects stored in a database can be displayed as a histogram along a timeline. *See* p. 3, ll. 1-2.

Parker is directed to a method for organizing visual digital objects and for selecting one or more of such visual digital objects for viewing. The method includes developing a histogram timeline which identifies a number of visual digital objects organized according to predetermined time periods. A portion of the histogram timeline is selected for viewing thumbnail representations of visual digital objects corresponding to the selected portion. If one or more of the viewed thumbnail representations is of interest, the corresponding digital visual objects can then be viewed. *See* Abstract.

The final Official Action asserts that *Rothmuller* teaches

... “second instructions configured, when executed, to generate a time bar that divides time into segments, each segment of time depends upon the amount of media files associated with the respective segment of time” as the temporal metadata associated with the photos can be used to present a histogram of photos in the form of a timeline 250 shown in fig. 1 . . . The timeline includes adjustable time bands 251 that can be moved to allow timeline 250 to specify the time period that is used to find matching photos . . . Examiner interprets the segments as time bands having a size/time period and media files associated with that size.”

See pp. 3-4 of the final Official Action. Fig. 1 from *Rothmuller* is reproduced below.



The timeline shown in Fig. 1 (reference numeral 250) and discussed in the above cited passage from the final Official Action is shown in greater detail in Fig. 3 from *Rothmuller*, reproduced below.



Fig. 3 from *Rothmuller* illustrates the time bands (251) discussed in the above cited passage from the final Official Action, and *Rothmuller* describes the functionality of the time bands as follows:

... when photos are imported into a database, the temporal metadata associated with the photos can be used to present a histogram of photos in the form of a timeline 250 ... The timeline 250 can show the number of photos taken as a function of time over some period of time that can range from the time the first photo in the database was taken to the present ... The timeline includes

adjustable time bands 251 that can be moved to allow timeline 250 to specify the time period that is used to find matching photos. When the timeline 250 is used by itself to search for matching photos, the adjustable time bands 251 can be moved to find all photos in the database that are tagged with a date or timestamp that falls within the range indicated by the adjustable time bands 251. Photos falling within this range are designated "best match" photos, and can be viewed as such in image area 100.

Returning to the claim language of the present application, it appears that *Rothmuller* does not teach the generation of "a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time" as recited, in one form or another, by each of the independent claims.

First, Appellants note that the timeline 250 of *Rothmuller* appears to visually divide time into uniformly-sized increments; that is, in Fig. 3 above, the timeline appears to be divided into increments of six-month duration, with all increments having the same length along the timeline, regardless of the number of media files that may be respectively associated with any individual increment. As such, the timeline 250 itself does not disclose "a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time." Indeed, the final Official Action does not reference the timeline of *Rothmuller* in order to assert this proposition.

Instead, the final Official Action states that the "Examiner interprets the segments as time bands having a size/time period and media files associated with that size." See p. 4 of the final Official Action. Appellants understand the Examiner's point to be that the time bands of *Rothmuller* define therebetween a period of time, and that the number of media files associated with the period of time between the time bands may be a function of the spacing of the time bands along the timeline. However, these aspects of *Rothmuller* are different from "a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time." In the first place, the time bands do not divide the timeline into segments

of unit time, but define therebetween a segment of arbitrary time, which is different from the times defined by any other segments that may exist in the timeline (for example, the segments defining half years in the timeline of Fig. 3 or the segments defined by the times falling outside of the time bands).

In the second place, the segment of time defined by the time bands does not have “a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time.” While it may be that the number of media files associated with the time period defined by the space between the time bands increases as the time bands are moved apart (and the length of the segment consequently increases), the length of the segment defined between the time bands does not depend on the number of files. Rather, the length of the segment is independently chosen by a user through the movements of the time bands. As such, it is not the length of the segment that depends on the number of media files, but the number of media files that depends on the length of the segment.

Overall, Appellants respectfully submit that *Rothmuller* nowhere teaches “a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time” as recited, in one form or another, in each of the independent claims of the present application.

This deficiency in *Rothmuller* is not cured by *Parker*. The final Official Action cites *Parker* as disclosing a “bar divided into segments of unit time and having length along the time bar.” See p. 4 of the final Official Action. In so doing, the final Official Action highlights the method discussed at paragraphs [0045]-[0048] of *Parker*. Of this method, *Parker* says:

FIG. 5 depicts a flow diagram showing how the histogram timeline can be made responsive to the resolution and size of the display device. This can be important if the histogram is to be displayed on a portable device such as a cellular phone or personal digital assistant where display resolution and size are limited. It is also useful on any display if the time span of the histogram timeline is very long and individual date bins cannot be adequately displayed. Once the histogram timeline is generated, the start and end dates of the histogram timeline to be displayed are determined as shown in step 230. In step 232, the resolution and physical size of the display area are determined. For example, resolution could be expressed as the number of horizontal and vertical pixels constituting the display area, and the

size of the display area could be expressed as horizontal and vertical dimensions in millimeters. Next, in step 234, the number of histogram bins that can be clearly displayed is calculated. The number of histogram bins that can be clearly displayed can, for example, include additional factors such as a human visual system model. In step 236, based on the number of histogram bins that can be clearly displayed and the desired start and end date of the histogram timeline, new date bin sizes are calculated. In step 238, a new histogram timeline is generated with the modified bin sizes. Finally, in step 240, the modified histogram timeline with more visible bin size is displayed.

The above described method therefore allows for generating a histogram timeline (that is, a time-based histogram or a determination of frequency as a function of time) by calculating the number of histogram bins that can be clearly displayed and then displaying a histogram timeline having the calculated number and distribution of bins.

The above method is different from “a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time” as recited, in one form or another, by each of the independent claims. Specifically, *Parker* does not teach the generation of a timeline that divides time into segments of unit time that each have a length along the time bar that depends on the amount of media files associated with the segment. Instead, *Parker* teaches the generation of a histogram timeline that is represented by a number of uniformly-spaced histogram bins. Further, the spacing of the histogram bins in *Parker* does not depend on the number of media files associated with the times represented by the respective bins, but depends on the start and end dates of the timeline, “the resolution and physical size of the display area,” and possibly a “human visual system model.”

In light of the above, Appellants respectfully submit that neither *Rothmuller* nor *Parker* discloses “a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time” as recited, in one form or another, by each of the independent claims. Because neither *Rothmuller* nor *Parker* individually discloses this aspect, the combination of *Rothmuller* and *Parker* also necessarily fails to disclose this feature.

The final Official Action continues by stating that the cited references “disclose the claimed invention except for segments of time having length along [sic] time bar (horizontally) which depends on the amount of files associated with that length.” See p. 5 of the final Official Action (emphasis added). As such, the final Official Action essentially admits the correctness of the above arguments regarding the deficiencies in *Rothmuller* and *Parker*.

The final Official Action continues: “Prior art teaches vertical bars, where bars represent the amount of media files associated with that time unit. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vertical graphs for a specific time segment to horizontal graph along the time bar, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*. 101 USPQ 284 (CCPA 1954). Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vertical graphs for a specific time segment to horizontal graph along the time bar, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.” See p. 5 of the final Official Action.

Appellants respectfully submit that these statements of law are inapplicable to the present application. The *In re Stevens* case cited by the Examiner dealt with a fishing pole with an adjustable handle. There, the court stated: “Of course, the need for adjustment in a fishing rod is something, according to the record, that has long been recognized as desirable for the reason that some fishermen like to see what particular angle best suits their own hands and their method of casting.” As such, *In re Stevens* dealt with a recognized need for adjustability in a situation where separate items (*i.e.*, fishing poles) of varying size were already available. This situation is clearly unrelated to the present case, where the utility of non-uniform scaling of a time bar for managing media files has been originally recognized, and is not simply a provision of adjustability between previously available options.

Further, it goes almost without saying that the recitation “a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time,” as found, in one form or another, in each of independent Claims 1, 11, 13, and 16, does

not amount to a “reversal of the essential working parts” of *Rothmuller* and/or *Parker*. Rather, a “reversal” of the concepts presented in *Rothmuller* and/or *Parker* would simply result in a relatively traditional time-based histogram, with a uniformly-scaled independent axis, but with the independent axis of the histogram being oriented vertically and the dependent axis being oriented horizontally. This is different from what is discussed and claimed in the present application, which is directed to a time bar (time being the independent variable) that is non-uniformly scaled based on the number of media files respectively associated with various portions thereof.

For at least the above reasons, Appellants respectfully submit that *Rothmuller* and *Parker* do not teach or suggest each and every limitation of independent Claims 1, 11, 13, and 16, and that the rejections of these claims, as well as each of the rejections of the claims that depend therefrom, is therefore traversed.

B. Claim 12 is patentably distinct from *Rothmuller*.

The final Official Action rejected Claim 12 as being obvious over *Rothmuller*, taken alone. Claim 12 depends from Claim 11, which, as discussed above, was rejected as being obvious over *Rothmuller* taken in combination with *Parker*. Appellants note that it is not possible to reject Claim 12 based solely on *Rothmuller*, given that the claim from which it depends, Claim 11, was rejected based on the combination of *Rothmuller* and *Parker*. Therefore, the rejection of Claim 12 is traversed. Further, Appellants respectfully submit that Claim 12 is patentable over the combination of *Rothmuller* and *Parker* for at least the reasons discussed above with respect to Claim 11.

CONCLUSION

For the above reasons, it is submitted that the rejections of Claims 1-18 are erroneous and reversal of the rejection is respectfully requested. A Claims Appendix containing a copy of claims involved in the appeal, an Evidence Appendix, and a Related Proceedings Appendix are attached.

Respectfully submitted,

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Claims Appendix

1. (Previously Presented) A computer program product comprising a computer readable storage medium having computer-readable program instructions embodied in the medium, the computer-readable program instructions comprising:

first instructions configured, when executed, to generate a media view that provides access to digital media files and associates digital media files with a predefined time; and

second instructions configured, when executed, to generate a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time.

2. (Previously Presented) The computer program product of Claim 1, wherein the second instructions configured to generate a time bar include instructions configured to generate selectable segments of unit time.

3. (Previously Presented) The computer program product of Claim 1, wherein the second instructions configured to generate a time bar include instructions configured to generate segments of unit time periods chosen from the group consisting of a year, a month, a week, and a day.

4. (Previously Presented) The computer program product of Claim 1, wherein the second instructions configured to generate a time bar include instructions configured to generate a segment of unit time that indicates the amount of media files in the time segment.

5. (Previously Presented) The computer program product of Claim 4, wherein the second instructions configured to generate a time bar includes instructions configured to generate

a segment of time that indicates the amount of media items in the segment based on a size of the segment.

6. (Previously Presented) The computer program product of Claim 4, wherein the second instructions configured to generate a time bar includes instructions configured to generate a segment of time that indicates the amount of media items in the segment unit based on the color of the segment.

7. (Previously Presented) The computer program product of Claim 1, wherein the second instructions configured to generate a time bar additionally includes instructions configured to generate a time handle that allows for periods of time to be scrolled.

8. (Previously Presented) The computer program product of Claim 1, wherein the first instructions further include instructions configured to associate digital media files with a predefined time based upon information associated with the digital media file.

9. (Previously Presented) The computer program product of Claim 1, further including third instructions configured to generate a calendar view that represents time in calendar format and associates events with respective periods of time.

10. (Previously Presented) The computer program product of Claim 9, wherein the first instructions configured to generate a media view that provides access to digital media files and associates digital media files with a predefined time, associates digital media files with a past predefined time and wherein the third instructions for generating a calendar view that represents time in calendar format and associates events with respective periods of time, associates events with respective future periods of time.

11. (Previously Presented) An apparatus comprising:
a processing unit that executes computer-readable program instructions embodied in a computer readable storage medium, the computer-readable program instructions comprising:
first instructions configured, when executed, to generate a media view that provides access to digital media files and associates digital media files with a predefined time, and
second instructions configured, when executed, to generate a time bar that divides time into segments of unit time, each segment of unit time having a respective length along the time bar that depends upon the amount of media files associated with the respective segment of unit time.

12. (Previously Presented) The apparatus of Claim 11, further comprising a display in communication with the processing unit that presents a combined view of the media view and the time bar, and wherein the computer-readable program instructions further comprise third instructions configured to generate a calendar view that represents time in calendar format, associates events with respective periods of time, and is presented by the display in combination with the media view and the time bar.

13. (Previously Presented) A method comprising:
associating a digital media file with a predefined time;
representing the digital media file in a media view that provides access to the media file with the associated predefined time; and
displaying a time bar having a plurality of segments of unit time in combination with the media view that permits a user to locate the digital media file based on the associated predefined time, wherein displaying the time bar comprises defining a respective length along the timeline for each segment of unit time based on the amount of media files associated with the respective segments of time.

14. (Previously Presented) The method of Claim 13, wherein the displaying a time bar further comprises displaying a time bar that includes selected periods for months, weeks, and days for locating a day associated with the digital media file.

15. (Previously Presented) The method of Claim 13, wherein the associating a digital media file with a predefined time further comprises associating a digital media file with a predefined time based on metadata information associated with the digital media file.

16. (Previously Presented) A method comprising:
providing the user of a digital device a display of a time bar and a media view that represents media files in association with a predefined time, wherein the time bar has one or more time levels, the display of at least one time level being divided into a plurality of segments of unit time, and wherein the display of each segment of unit time of the plurality of segments of unit time of at least one time level has a respective length along the time bar based upon the amount of media files associated with the respective segment of unit time;
activating one or more time levels of the time bar to display the specific predefined time for which a media file is associated;
activating the specific period of time to display a representation of the media file and the associated predefined time; and
selecting the representation of the media file to access the media file.

17. (Previously Presented) The method of Claim 16, wherein the activating one or more time levels of the time bar to display the specific predefined time for which a media file is associated further comprises activating one or more time levels of the time bar chosen from the group consisting of month level, week level, and day level to display the specific predefined time for which a media file is associated.

18. (Previously Presented) The method of Claim 16, wherein the activating the specific predefined time to display a representation of the media file and the associated predefined time further comprises activating a specific date to display a representation of the media file and the date.

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Evidence Appendix

No additional evidence is provided.

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Related Proceedings Appendix

There are two potentially related proceedings, related to U.S. Patent Application No. 10/792,175 and U.S. Patent Application No. 10/774,670, neither of which having produced a final decision or determination.